

# **Ohio Department of Education**

## **Policy on Positive Behavior Interventions and Support, and Restraint and Seclusion**

Presented to the State Board of Education January 15, 2013

### **I. Purpose**

The purpose of this policy is to create a statewide policy that applies to all school districts regarding the use of positive behavior intervention and supports, and the limited use of restraint and seclusion. The Ohio Department of Education promulgates this policy in accordance with the Governor's Executive Order 2009-13S, the State of Ohio Policy on Restraint and Seclusion Practices dated May 17, 2010, and in accordance with guidance from the United States Department of Education.

Every effort should be made to prevent the need for the use of restraint and for the use of seclusion. The use of a non-aversive effective behavioral system such as Positive Behavioral Intervention and Supports (PBIS) shall be used to create a learning environment that promotes the use of evidence-based behavioral interventions, thus enhancing academic and social behavioral outcomes for all students.

Restraint or seclusion shall not occur, except when there is an immediate risk of physical harm to the student or others, and shall occur only in a manner that protects the safety of all children and adults at school. Every use of restraint or seclusion shall be documented and reported in accordance with the requirements set forth below.

### **II. Applicability**

This Ohio Department of Education Policy applies to all school districts in the State of Ohio.

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### III. Requirements:

Each school district must develop, publish and implement written policies to govern the use of emergency safety interventions (physical restraint and seclusion) in all of its schools. Districts must make their written policies on the use of emergency safety interventions available to parents annually, and the school district must post the policy on its website.

At minimum, written policies must conform to the standards, definitions, and requirements set forth in this policy. Ohio Adm. Code 3301-35-15(H). Practices that do not adhere to the standards and requirements set forth in this policy are prohibited, and physical restraint and seclusion shall not occur, except when there is an immediate risk of physical harm to the student or others. The school district shall utilize physical restraint and seclusion only in a manner that protects the safety of all children and adults at school.

Any school that employs physical restraint or seclusion practices shall have established:

- A. A written positive behavior support plan,
- B. Pre-established emergency procedures,
- C. Specific procedures and training related to the use of restraint and seclusion, and
- D. A process for the collection of data to support the implementation of the principles of positive behavior interventions and supports and data regarding the specific uses of restraint and seclusion.

### IV. Definitions:

**Aversive behavioral interventions** - means an intervention that is intended to induce pain or discomfort to a student for the purpose of eliminating or reducing maladaptive behaviors, including interventions such as: application of noxious, painful and/or intrusive stimuli, including any form of noxious, painful or intrusive spray, inhalant or tastes.

**Chemical Restraint** – means a drug or medication used to control a student’s behavior or restrict freedom of movement that is not:

- A. Prescribed by a licensed physician, or other qualified health professional acting under the scope of the professional’s authority under State law, for the standard treatment of a student’s medical or psychiatric condition; and
- B. Administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional’s authority under State Law.

**De-escalation techniques** – are strategically employed verbal or non-verbal interventions used to reduce the intensity of threatening behavior before a crisis situation occurs.

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**Functional Behavior Assessment**— is a collaborative problem-solving process that is used to describe the “function” or purpose that is served by a student’s behavior. Understanding the “function” that an impeding behavior serves for the student assists directly in designing educational programs and developing behavior plans with a high likelihood of success.

**Mechanical Restraint** – means

- A. Any method of restricting a student’s freedom of movement, physical activity, or normal use of the student’s body, using an appliance or device manufactured for this purpose; and
- B. Does not mean devices used by trained school personnel, or used by a student, for the specific and approved therapeutic or safety purposes for which such devices were designed and, if applicable, prescribed, including:
  - 1. Restraints for medical immobilization;
  - 2. Adaptive devices or mechanical supports used to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports; or
  - 3. Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.

**Parent** means:

- A. A biological or adoptive parent;
- B. A guardian generally authorized to act as the child’s parent, or authorized to make decisions for the child (but not the state if the child is a ward of the state);
- C. An individual acting in the place of a biological or adoptive parent(including a grandparent, stepparent or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare;
- D. A surrogate parent who has been appointed in accordance with rule 3301-51-05(E) of the Administrative Code; or
- E. Any person identified in a judicial decree or order as the parent of a child or the person with authority to make educational decisions on behalf of a child.

**Physical escort** - means the temporary touching or holding of the hand, wrist, arm, shoulder, waist, hip, or back for the purpose of inducing a student to move to a safe location.

**Physical Restraint** – means the use of physical contact that immobilizes or reduces the ability of a student to move their arms, legs, body, or head freely. Such term does not include a physical escort, mechanical restraint, or chemical restraint. Physical restraint does not include brief, but necessary physical contact for the following or similar purposes:

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- to break up a fight;
- to knock a weapon away from a student's possession;
- to calm or comfort;
- to assist a student in completing a task/response if the student does not resist the contact; or
- to prevent an impulsive behavior that threatens the student's immediate safety (e.g., running in front of a car).

**Positive Behavior Interventions and Support** – means

- A. A school-wide systematic approach to embed evidence-based practices and data driven decision making to improve school climate and culture in order to achieve improved academic and social outcomes, and increase learning for all students, and
- B. Encompasses a wide range of systemic and individualized positive strategies to reinforce desired behaviors, diminish reoccurrences of challenging behaviors and teach appropriate behavior to students.

**Positive Behavior Support Plan** – means the design, implementation, and evaluation of individual or group instructional and environmental modifications, including programs of behavioral instruction, to produce significant improvements in behavior through skill acquisition and the reduction of problematic behavior.

**Prone Restraint** – means physical or mechanical restraint while the student is in the face down position for an extended period of time.

**School District** - means a local, exempted village, city, joint vocational or cooperative education school district as defined in Chapter 3311. of the Revised Code or an educational service center that operates a school or educational program. For purposes of this rule, the term does not include schools operated in facilities under the jurisdiction of the Department of Rehabilitation and Corrections or the Department of Youth Services.

**Seclusion** – means the involuntary isolation of a student in a room, enclosure, or space from which the student is prevented from leaving by physical restraint or by a closed door or other physical barrier.

**Student** - means a child or adult aged three to twenty-one enrolled in a school district.

**Student personnel** - means teachers, principals, counselors, social workers, school resource officers, teacher's aides, psychologists, or other school district staff who interact directly with students.

**Timeout** – means a behavioral intervention in which a student, for a limited and specified time, is separated from the class within the classroom or in a non-locked setting for the purpose of self-regulating and controlling his or her own behavior. In a timeout, the student is not physically restrained or prevented from leaving the area by physical barriers.

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### **V. Positive Behavior Intervention and Supports**

- A. Every student deserves to be treated with dignity, be free from abuse, and treated as a unique individual with individual needs, strengths, and circumstances. Schools should implement an evidence-based school wide system or framework of positive behavioral interventions and supports.
- B. Education environments shall be structured to greatly reduce, and in most cases eliminate, the need to use restraint or seclusion. Positive Behavior Intervention and Supports (PBIS) creates structure to the environment using a non-aversive effective behavioral system. It is a decision making framework that guides selection, integration, and implementation of evidence-based academic and behavioral practices for improving important academic and behavior outcomes for all students.
- C. The PBIS prevention-oriented framework or approach applies to all students, all staff, and all settings. PBIS, when integrated with effective academic instruction, provides the support students need to become actively engaged in their own learning and academic success.
- D. Components of a Positive Behavior Intervention and Supports include:
  - 1. Trained school staff to identify conditions such as:
    - a. Where, under what conditions, with whom and why specific inappropriate behavior may occur.
    - b. Preventative assessments should include:
      - i. A review of existing data,
      - ii. Interviews with parents, family members and students and
      - iii. Examination of previous and existing behavioral intervention plans.
    - c. With the analysis of this data schools shall develop and implement preventative behavioral interventions and teach appropriate behavior.
      - i. Modify the environmental factors that escalate the inappropriate behavior.
      - ii. Support the attainment of appropriate behavior.
      - iii. Use verbal de-escalation to defuse potentially violent dangerous behavior.
  - 2. Schools must establish a system that will support students' efforts to manage their own behavior; implement instructing techniques in how to self-manage behavior, decrease the development of new problem behaviors; prevent worsening of existing problem behaviors; redesign

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learning/teaching environments to eliminate triggers and maintainers of problem behaviors. The system should include family involvement as an integral part of the system.

### **VI. Prohibited Practices:**

**The following are prohibited under all circumstances, including emergency safety situations:**

- A. Prone restraint as defined in Executive Order 2009-13S;
- B. Corporal punishment;
- C. Child endangerment as defined in R.C. 2919.22;
- D. Seclusion or restraint of preschool students in violation of the provisions of Ohio Adm. Code Rule 3301-37-10(D);
- E. The deprivation of basic needs;
- F. Restraint that unduly risks serious harm or needless pain to the student, including the intentional, knowing, or reckless use of any of the following techniques:
  - 1. Using any method that is capable of causing loss of consciousness or harm to the neck or restricting respiration in any way,
  - 2. Pinning down with knees to torso, head and/or neck,
  - 3. Using pressure points, pain compliance and joint manipulation techniques,
  - 4. Dragging or lifting of the student by the hair or ear or by any type of mechanical restraint,
  - 5. Using other students or untrained staff to assist with the hold or restraint, or
  - 6. Securing a student to another student or to a fixed object;
- G. Mechanical or chemical restraints (which does not include devices used by trained school personnel, or by a student, for the specific and approved therapeutic or safety purposes for which such devices were designed and, if applicable, prescribed, or medication administered as prescribed by a licensed physician);
- H. Aversive behavioral interventions; or
- I. Seclusion of students in a locked room.

### **VII. Restraint**

- A. Each school district must have a policy that specifically indicates that the use of prone restraint, physical restraint that obstructs the airway of a student, or any physical restraint that impacts a student's primary mode of communication is prohibited.

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- B. Physical restraint may be used only when there is an immediate risk of physical harm to the student or others and no other safe and effective intervention is possible, and only in a manner that is age and developmentally appropriate. School personnel may use physical restraint only in accordance with local policy and the requirements of this policy.
- C. If a school district uses physical restraint, staff must:
  - 1. Be appropriately-trained to protect the care, welfare, dignity, and safety of the student;
  - 2. Continually observe the student in restraint for indications of physical or mental distress and seek immediate medical assistance if there is a concern;
  - 3. Use verbal strategies and research based de-escalation techniques in an effort to help the student regain control;
  - 4. Remove the student from physical restraint immediately when the immediate risk of physical harm to self or others has dissipated;
  - 5. Conduct a de-briefing including all involved staff to evaluate the trigger for the incident, staff response, and methods to address the student's behavioral needs; and .
  - 6. Complete all required reports and document their observations of the student.
- D. If a student repeatedly engages in dangerous behavior that leads to instances of restraint and/or seclusion, the school district shall conduct a functional behavioral assessment to identify the student's needs and more effective ways of addressing those needs. If necessary, this functional behavioral assessment should be followed by a behavioral intervention plan that incorporates appropriate positive behavioral interventions.

### **VIII. Seclusion**

- A. Seclusion may be used only when there is an immediate risk of physical harm to the student or others and no other safe and effective intervention is possible. Seclusion shall never be used as a punishment or to force compliance. Seclusion should only be used in a manner that is age and developmentally appropriate. School personnel may use seclusion only in accordance with local policy and the requirements of this policy.
- B. Seclusion is a last resort safety intervention that provides an opportunity for the student to regain self-control.
- C. A room or area used for seclusion must:

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1. provide for adequate space, lighting, ventilation, clear visibility and the safety of the student; and
  2. not be locked.
- D. Seclusion shall not be used:
1. for the convenience of staff;
  2. as a substitute for an educational program;
  3. as a form of discipline/punishment;
  4. as a substitute for less restrictive alternatives;
  5. as a substitute for inadequate staffing;
  6. as a substitute for staff training in positive behavior supports and crisis prevention and intervention; or
  7. as a means to coerce, retaliate, or in a manner that endangers a student.
- E. If a school district uses seclusion, staff must:
1. Be appropriately trained to protect the care, welfare, dignity, and safety of the student;
  2. Continually observe the student in seclusion for indications of physical or mental distress and seek immediate medical assistance if there is a concern;
  3. Use verbal strategies and research based de-escalation techniques in an effort to help the student regain control as quickly as possible;
  4. Remove the student when the immediate risk of physical harm to self or others has dissipated;
  5. Conduct a de-briefing including all involved staff to evaluate the trigger for the incident, staff response, and methods to address the student's behavioral needs; and
  6. Complete all required reports and document their observation of the student.
- F. If a student repeatedly engages in dangerous behavior that leads to instances of restraint and/or seclusion, the school district shall conduct a functional behavioral assessment to identify the student's needs and more effective ways of addressing those needs. If necessary, this functional behavioral assessment should be followed by a behavioral intervention plan that incorporates appropriate positive behavioral interventions.

## **IX. Training and Professional Development**



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School personnel shall be trained annually as appropriate given their position in the district and the population they serve in their current assignment.

- A. Training should align with the district/school-wide comprehensive system of learning supports based on principles of PBIS and include:
  - 1. common purpose and approach to discipline;
  - 2. clear set of positive expectations and behaviors;
  - 3. procedures for teaching expected behavior;
  - 4. continuum of procedures for encouraging expected behavior;
  - 5. procedures for on-going monitoring and evaluation including training and re-training.
- B. The school district shall ensure that an adequate number of personnel in each building are trained in crisis management and de-escalation techniques.
- C. Schools and programs must maintain written or electronic documentation on training provided and lists of participants in each training.

### **X. Required Data and Reporting**

Each use of seclusion or restraint shall be documented in writing and reported to the building administration immediately; reported to the parent immediately; and documented in a written report. A copy of the written report shall be provided to the parent or guardian within 24 hours, and the school shall maintain a copy of the report in the student's file. These reports are confidential pursuant to the Family Educational Right to Privacy Act, and a school district is prohibited from releasing any personally identifiable information to anyone other than the parent, in accordance with the requirements of that Act.

Every school district shall report information concerning its use of restraint and seclusion annually to the Ohio Department of Education as requested by the Ohio Department of Education.

### **XI. Monitoring**

Periodic review of this policy shall be the responsibility of the Ohio Department of Education.

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Each school district shall establish a monitoring procedure as part of their restraint and seclusion policy to ensure policy and practice are implemented as set forth in policy. Every school district shall have policies and procedures that include:

- A complaint investigation procedure;
- A procedure for parents to present written complaints to the Superintendent of the school district to initiate a complaint investigation by the school district; and
- A procedure for parents and the school district to receive written findings of fact and, if necessary, a corrective action plan, within thirty (30) days of filing of a complaint by parent.

Each school district shall make its records concerning restraint and seclusion available to staff from the Ohio Department of Education upon request.

Any parent may report concerns about whether a school district has a policy that meets the requirements of this policy to the Ohio Department of Education.

In accordance with the consent order entered in *Doe v. State of Ohio*, complaints alleging the improper use of restraint or seclusion on a student with a disability will be investigated by the Ohio Department of Education, Office for Exceptional Children, if the complaint otherwise falls within the procedures concerning state complaints under IDEA as set forth in Ohio Adm. Code Rule 3301-51-05(K)(4)-(6). Complaints alleging injuries to a student with a disability or the use of restraints or seclusion shall not be deemed insufficient on the face of the complaint if they are framed within the context of IDEA, including:

- A pattern of challenging behaviors that are related to the student's disability;
- Whether the student has had or should have had a functional behavioral assessment (FBA) and a positive behavior support plan (PBSP);
- Whether the FBA and PBSP are appropriate;
- Whether the student's behavior and interventions are addressed or should have been addressed in the IEP; and
- Whether staff has been sufficiently trained in de-escalation and restraint techniques.

## XI. References

Governor's Executive Order 2009-13S:

<http://www.olrs.ohio.gov/sites/olrs.ohio.gov/files/u5/executive-order-ban-prone-restraints.pdf>

State of Ohio Policy on Restraint and Seclusion Practices (May 17, 2010):

[https://share.education.ohio.gov/Seclusion%20%20Restraint/OHIO%20RS%20POLICY%205-17-10%20FINAL%20\(2\).doc](https://share.education.ohio.gov/Seclusion%20%20Restraint/OHIO%20RS%20POLICY%205-17-10%20FINAL%20(2).doc)

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Restraint and Seclusion: Resource Document: <http://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf>